

N.Y.S.D. Case #
21mc100(AKH)

**UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT**

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 4th day of November, two thousand and eleven,

Sarah Atlas, Christopher Baumann, Ruben Berrios, Donald Bigi, Enis Boyer, Eric Brzostek, Gary Cali, Thomas Callaghan, Luis Carpio, Raymond Cascio, Regina Cervantes, Thomas J. Clarke, Anthony Conti, Mitchell Coto, Joseph Cutrone, John Dadabo, Kevin Delano, John DeMartino, Jr., Kevin Doherty, Richard Estreicher, Andrew Finn, Vincent Forras, Anthony Gallo, Robert Gayer, Frank Giaramita, Steven Guise, Brian Hanberry, Jeffrey Howell, Bill Keegan, Donald Kennedy, Suzanne Lester, Patricia Lewis, Joseph Libretti, Glenn Makuch, Julio Marrero, Marc Mastros, Kenneth McCormick, Robert McGrory, Timothy McInerney, Henry Miano, Timothy Morley, Brian Murphy, Paul Murphy, Joseph Napoli, James O Keefe, Girard Owens, Edward Parker, William Piatti, Thomas Reilly, Terrence Revella, David Rivas, John Rizzi, George Samuels, Brenda Spencer, Sean Tesieriro, Sean Veerapen, Kodengada Viswamithra, Charles Wilson, Katherine Zarr,

Plaintiffs - Appellants,

v.

Noah H. Kushlefsky,

Appellee,

Christopher Cirino, John Montalvo, Marion S. Mishkin, of counsel Noice of appearance to Sacks & Sacks, Phyllis Costarella, Joseph Falcone, Lenny Dinotte, Cliff Carty, Kathleen Carty, Joseph Scaramuzzino, Kelly M. Miller, John J. Quinn, Attorney, Kenneth J. Strohl, Yajaira Strohl, Arlene Montalvo, Richard Mighdoll,

ORDER

Docket Number: 11-1446

**USDC SDNY
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Colleen Ryan, J. Richard Ryan, Richard Ryan, Frank Maisano, Julie Maisano, Arthur S. Davis, Theresa A. Davis, Lawrence Ford, Blanca Goffredo, Frank Goffredo, Bernard Stinchcomb, Christine Johnson, Robert Johnson, Jr., David Nolan, Louise Nolan, Robert Panarella, Herbert Pate, Francis Lavery, Kathryn Lavery, Arlene McGillick, Jon J. McGillick, Dewardranth Samaroo, Donald Carson, Gloria Elaine Carson, Andrea Cavicchio, Nicola Cavicchio, Jason Porcaro, Robert Ayers, Diane Hoch Sankey, Patricia O'Brien, Dean Curti, Jessie K. Horton, Lawrence Horton, Kevin J. O'Brien, William J. Sankey, Jerry O'Connor, Victoria O'Connor, John Quinn, Donald G. Thompson, Renee Thompson, Daniel Leonard, Laura Leonard, Jo Andrusyczyn, Stanley Andrusyczyn, Hector Rivera, Joseph Bellissimo, Carl Fisher, Jon Marie Fisher, Patrick Donaghy, Susan Allison, Richard Allison, Juan Cubero, Rosa Cubero, Jeanne Kolarik, Mark Bernheimer, Arthur Alessandro, John Delaney, Patrick D'Alliegro, John Botte, Cynthia Shelto, Allen Andersen, Sue Ann Andersen, Cecelia Borcharding, Stephen Borcharding, Marcia Diaz, William Diaz, Charles La Barbera, Catherine Langerin, Philip J. Pfersching, Kevin Reynolds, Joseph Cardinale, Teresita Cayatano, Robert Intartaglia, Christopher Romanski, Raymond Fuscaldo, Donna Donnelly, Dorothy Foris, Delia Becca, Lance Becca, Gregory A. Forsyth, John Jackson, Tomiann Jackson, Donna Haskell, Frank Haskell, Christine Placide, Larrie Placide, Ann Marie Duignan, Patrick Duignan, Michael Macko, Jill Miskanic, John Miskanic, Andrea McDonough, David McDonough, Walter Jensen, Thomas Doherty, James Checco, Judy Checco, Jean Imparato, Joseph Imparato, Lane Metro, Nancy Metro, Kevin Farrell, Concetta Zuccaro, John Zuccaro, James Albach, Michael Bell, Shirley Bell, John Boyle, Christine Broome, Robert Broome, Maryann Bubelnik, Thomas J. Bubelnik, Barry Buss, Jeanette Buss, Anthony Devita, Laranie Devita, Diane Donovan, Kenneth Donovan, Danielle Eivers, Joseph Eivers, Gregory Forsyth, Robert Gallagher, Rosario Gallagher, Robert Garrett, Carol Gavitt, Joseph Gavitt, Francesca Gillam, Thomas Gillam, Patricia Hawkins, Scott Hawkins, Anna Maria Hubner, Vincent Hubner, Barbara Kadnar, James A. Kadnar, Derek Kelly, Catherine Lang, James Lang, Caroline Lavin,

Michael Lavin, Alfred Luchetti, Mary Ellen Luchetti, Frank Malone, Dennis McConville, Gail McConville, James McHugh, Margret McHugh, Kenneth Miccio, Cathy Mongiello, Kevin Mongiello, Laura Morello, Marc Morello, Mathew Mulham, Corinne Mulham, Carolyn Mundy, Thomas Mundy, Joseph Murphy, Nancy Murphy, Maureen Nogan, Richard Nogan, John Quevedo, Alfred Retundie, Carol Retundie, Alice Rivera, Vincent Rivera, Donald Striffler, Mary Jane Striffler, Robert Van Houten, Robin Van Houten, Andrea Weisenburger, Gregg Weisenburger, Michael Welsh, Theresa Welsh, George Foris, Jacqueline Cacchioli, Louie Cacchioli, Patricia Agugliaro, Anthony Agugliaro, Alfred Gaillard, Ernest Medaglia, Susan Medaglia, Lionel Payette, Michelle Payette, Ingrid Quagliariello, Vincent Quagliariello, Lois Rice, Frank Silechai, Frank Squicciarini, Michelle Squicciarini, Anthony Compono, Sheila Compono, William Favata, Michele Hardin, Robert Hardin, Jimmy Rosario, Toni Rosario, Leonard Schmitt, Virginia Schmitt, John McLees, Lenore Rauscher, Philip Rauscher, John C. Sondey, John Baiano, John Bonvicino, John Bou, Douglas Anderson, Daniel Simon, Theresa Simon, Richard Fritz, Adam J. Vilagos, Yvonne Vilagos, George Morales, Charles Piotrowski, Marguerite Piotrowski, Joseph Accetta, Sharon Accetta, Frank Gulotta, Geraldine Martin, John McArdle, Police Officer, Barbara McArdle, Barbara Melendez, Edna I. Muniz, Raul Muniz, Christine Pagliuca, Brian Madden, Maxine Madden, Joseph Pagliuca, Dennis Keane, Lisa Keane, Kenneth Peppei, Rhonda Peppei, Dino Polichetti, Detective, June Polichetti, Auying Rivera, Maureen Rodriguez, Linda Scharp, William Scharp, Heidi Scheiner, Joseph Scotti, Lisa Scotti, Steven Stefanakos, Ann Towpash, Robert Tucker, Eric Wuss, Staci Wuss, Mary DeSimone, Joseph DeSimone, Annette Misichia, Frank Misichia, Allison Poliseno, Nicholas Poliseno, Charles Rice, Jeffrey Rivera, Kenneth Rodriguez, Kevin Mongiello, Kevin Brannick, Wayne Brown, Robert Carannante, Victor Carpentier, Alan Ceserano, Michael Conlon, Phyliss Costarella, Gerald Damitz, Anthony Delbianco, Lenny Dinotte, Daniel Donovan, Roy Edwards, Nelson Garcia, Anthony Girodano, Robert Goffredo, Rafael Gutierrez, Otto HAvell, III, Robert Henri, Austin C. Johnson,

Omar Malave, John Menoni, Mickey Nardiello, Frank Ozello, Thomas Perry, Juan Rullan, Thomas Perry, Raymond Russo, George Snyder, Alexis Solomon, John Pankey, Rafael Garcia, individually and as representatives of a class of individuals similarly situated, John Lombardi, individually and as representatives of a class of individuals similarly situated, Hasan A. Muhammad, individually and as representatives of a class of individuals similarly situated, Roberto Ramos, Jr., individually and as representatives of a class of individuals similarly situated, Michael R. Basile, Thomas E. Carlstrom, Kathy O'Neill, Robert O'Neill, Telma Alvarado, Robert Asinelli, Susan Asinelli, Carol Barnes, James S. Barnes, Daniel Danzi, Gabriel Masaracchia, Sharon Danzi, John DiFalco, Dorothy Rohr, Nancy DiFalco, John Rohrbeck, Agustin Diaz, Daniel Doll, Lisa Doll, John Glynn, Mary Glynn, Sharon Sellick, Gary Grisolia, Joseph Aridzzzone, Joann Grisolia, Bruce Groth, Donna Groth, Charles Haver, Lori Haver, Jo Ann Lavery, Manuel Luna, Jessica Macaluso, Daniel Mahlmann, Tracey L. Mahlmann, Bryan McElwain, Felicia McElwain, Carolyn McGuire, Robert McGuire, Jane McKenna, John McKenna, Joann MCMahon, John MCMahon, Sharon Brenseke, Steven Brenseke, Christine Comerford, John Comerford, Edward Donnelly, Linda Donnelly, James Fusco, John Mills, Margaret Mills, Jennifer Morales, Nicholas Morales, Adilline Navarro, Felix Navarro, Martin Olsen, Kumarie Rampersad, Sunil Rampersad, Willie Richardson, Donald O. Thompson, Majorie Thompson, Michael Clarke, Vienna Clarke, John Dadabo, Adam Lutfi, Elliott Miller, Nicole Lutfi, Joseph Nacarolo, Loan Murray, Pamela Nacarolo, Errol Rampersad, Parbatee Rampersad, Boroido Rivera, Jennifer Roberts, Desmond Loughran, Jean Vasconi, Emil Borg, Maylee Borg, Patrick Holahan, Susan Holahan, Emily Puppa, Glenn Puppa, Ursula Hubert, Michael Hurbert, Catherine Keir, James Keir, Cindy Mastrota, Frank Mastrota, Frank Mastrota, George Faller, Kathleen Faller, Michael Crowell, Ada R. Aparicio, Robert Murray, Joseph Aparicio, Donald Bigi, Donna J. Bigi, Andrew F. Carson, Bonnie M. Carson, Lawrence Coleman, Peggy Coleman, Christine Duval, Keith Duval, James Griffin, Jennifer Griffin, Celeste Haas,

Scott Haas, Brian Hearn, Kathleen Hearn, Debra Huhn
 Hewson, Michael Hewson, Mary Ellen Lanigan,
 Michael Lynch, Tina Lynch, Michael Brigante, Steve
 Cappello, Paul Carpenteri, John Kear, Christopher
 O'Rourke, Salvatore Palmeri, Wendy Henry, Joseph
 Leahy, Sandra Leahy, Allison Edwards, William
 Edwards, Patrick Arcese, James Cooney, Samuel
 Provisero, Susan Marie Provisero, Denise Esposito,
 Robert Esposito, Doug R. Horning, James Kelly, Benito
 Berrios, Jr., Chaundolyne Mack, Debra Maggiani, Nabil
 Hussain, Michael Giganti, Josephine Damato, Michael
 Damato, Carmen Fernandez, Joseph Nolan, Police
 Officer, Lana Nolan, Mickey McFarland, Elaine Wint,
 Helen Mulcahey, Catherine Siano, Thomas Siano,
 Karen L. Simpson, William Simpson, Correction, James
 A. Howard, Elizabeth Stewart, Richard Maiorino,
 James Monahan, Police Officer, John Urso, William
 Schillinger, Kathy Slizewski, Kenneth Slizewski, Alfred
 MacDonald, Kelly Macdonald, Lori McPartland,
 Michael McPartland, Edgar Mendez, Tasha Mendez,
 Christopher O'Donnell, Stephanie O'Donnell, Ana Fox,
 Robert Fox, Donna Cirino, Martin Kelly, Shane
 Dresser, Patrick McVey, Christopher Misciagna, Ellen
 Collins, Debra Curcio, Peter Curcio, Patricia M.
 DiGiovanni, Kathleen Fullam, James Fullam, Jacqueline
 Miller, James Miller, James Mullen, Trustee, Kim
 Mullen, John Murphy, Dan Potter, Jean Potter, James
 Service, Rebecca Service, John Condon, Cynthia Vitera,
 Christopher Lavin, Dawn D'Agostino, Philip
 D'Agostino, Bozena Kajewska-Pielarz, Joesf Pielarz,
 Christine Panarella, Michael Panarella, Andrew Scallo,
 Diane Scallo, Maureen Colgan, Patrick J. Colgan, John
 R. O'Keefe, Sandra O'Keefe, Khemraj Singh, Antonio
 Martino, Nicole Martino, James Baumann, Richard
 Bittles, Cesar Bonilla, Joanne Bonilla, Daniel Gilroy,
 Maureen Gilroy, George Rodriguez, Marguerita
 Rodriguez, Thomas Callaghan, John Harkins, Police
 Officer, Kevin Kerrigan, Iris Lopez, Margaret O'Keefe,
 John Marksp, Lisa Marks, Anthony Marden, Theodore
 Sergio, Christina Marden, Kathleen Doerler, William
 Unger, Walter Bieber, Deirdre O'Donnell, Joseph
 O'Donnell, Allen Akers, Mary Akers, Betty Harrison,
 Yvonne Leon, Robert Garrett, Karen Labetti, Michael
 Labetti, Carlos Perez, Suzanne Murphy, Michael
 Rooney, Penny Rooney, John Rohr, James Melendez,

Edward Galanek, Luz Cardona, Elizabeth Connolly, James Connolly, Catherine Musto, Louis Musto, Gerald Quill, Linda Quill, Edward Scharfberg, New York City Police Officer, Marylee Scharfberg, Christine Voce, Gregory Voce, Cora Weihs, Joseph Weihs, Suzanne Worontzoff, Walter Worontzoff, Anna Zecca, George Zecca, Barbara Lopez, Manuel Lopez, Thomas Lennon, Aida Valdiulezo-Nieto, Edward Learning, Victoria Learning, Hamide Cagatay, Zebebulah Cagatay, Jose Calle, Rudolph Geiger, Carolyn Bryson, Robert Mule, Charity Oberdier, Jeffrey Oberdier, Deborah Scotto, Dominick Scotto, Louis Quadrino, Sonia Quadrino, Michael J. Surianello, Frank Danetra, John Warren, Sheryl Warren, Edwin Pagan, Daniel Kemmet, Doell Kemmet, Fernando Sanchez, Sanchez Maria, Julia Valentin, William Valentin, Sophie McGill, Mary McGrory, Anthony Heitz, Ruth Marie Heitz, Peter Dalton, William English, Robert McCracken, Chief, Walter Lane, Brian Divis, Christopher Destefano, Anna Patricia Cantos, Richard Saccomagno, Charles Dell'accio, Ilkhah Dell'accio, June Dibetta, John McGill, Robert McGrory, Carl Delgado, Carolyn Cicero, Joseph Cicero, Donna O'Byrne, Michael O'Byrne, Patricia Ryan, Terrence Ryan, Ronald Brandt, Paul Caminiti, Patrick Coleman, Robert Cooke, Thomas Dowdle, Claudette Cruickshank-Davis, William Collins, Michael Kelley, Dee A. Fraley, Gerald E. Fraley, Joseph Greco, Judy Greco, James Francis, Karina A. Francis, Hector Diaz, Linda Diaz, Scott Dabreu, Michael Divirgilio, Frank Ingenito, Michael Pluchino, Robert Schuman, Jerome Willis, Hector Fernandez, Angie Febres, Christopher Hynes, Leslie Hynes, William Henderson, Maria Henderson, Maryanne Hinchy, George O'Connor, Allison Kapezack, Steven Kapezak, Mary Imbornoni, Thomas Imbornoni, Daisy Ibanez, Diomedes Ibanez, Doreen Kozak, James Knight, Roxanne Knight, Christopher Kuchler, Soojin Kuchler, Carolyn Leibowitz, Leslie Leibowitz, Anthony O'Brien, Patricia O'Brien, Terrance Frontis, Vincent Ligotti, Jay Levine, Maria O'Neill, Thomas O'Neill, Judy Chin, Tommy Chin, Deborah Lonnberg, Ronald Lonnberg, Steve Lovergine, Jerome Kazlauskas, David Andre Liferidge, Patricia Havelka, Rudolf Havelka, Antonio Silva, Esperanza Silva, Diana Trinidad, Edictor Trinidad, Albert Sheppard, Patricia Sheppard, Rosemary Johnson,

Stephen Johnson, Geraldine R. Sabatasso, Robert Ryan,
 Holly Mulhern, Richard Mulhern, Denise Sullivan,
 Jimmie Sullivan, Joseph Haddock, Zenobia Walji, Mark
 Lenigan, Jeaan Marie Whelan, Patrick Whelan, Alinda
 Durkin, John Durkin, Anthony D'Angelo, Laura
 D'Angelo, Barry Felder, Thomas Glaudino, John Faust,
 Rosemarie Faust, Charles Wassil, Patricia Wassil,
 William Luciani, Daniel Taylor, Lynn Taylor, Teresa
 Hartley, Robert Zane, Albert Pearce, Robert Suarez,
 Antonio E. Alves, plaintiff in matters 05-cv-7266 &
 05-cv-2716, Maria E. Alves, plaintiff in matters
 05-cv-7266 & 05-cv-2716, Raymond Hauber, in his
 representative capacity as executor of the Estate of
 Raymond Hauber, now deceased, Christine Stinchcomb,
 Lisa Reynolds, John Tiska, Lorraine Dadabo, Todd
 Lum, David Zephrene, Josephine Zephrene, Debra
 Hutchinson, Don Hutchinson, Michael Hughes,
 Christine Hutchinson, Robert Hutchinson, Martin
 Zollner, Imie Zollner, William Mulcahey, Ann Hock,
 Joseph Hock, James Howard, Elizabeth Stewart,
 Herbert Stewart, Anna Fittipaldi, Tyrone Lott, John
 Lonnborg, Susan Woods, Dominick Rutigliano, Joelle
 Rutigliano, Ann Marie Schilling, Chalres Schilling,
 Linda Solis, Lucio Solis, Louise McNiece, Patrick
 McNiece, Frank Farrugia, Karen Farrugia, Frank
 Farrugia, Kathleen Tracy, Peter Tracy, Richard
 Passeretti, Richard Maoiorino, Gary Tolesp, Karline
 Toles, Daniel Magrino, Virginia McGill, Keith McGill,
 Christopher Murphy, Gary Mangiapia, Paul Mazzilli,
 James Monahan, Police Officer, Stephanie Urso, Mary
 Anne Schillinger, William Schillinger, Lori McParland,
 Michael McParland, Darren Brindisi, Alviri Foster,
 Pamela Gauci, Hugh Bradshaw, Christopher Greeff,
 John Capenito, Kevin Capenito, Alisa Columbia, Chris
 Columbia, Pete Franzone, Anita Cozza, John Cozza,
 Luz Botero, Carolyn Cuneo, Cory Cuneo, Daniel
 Conroy, Suzanne Conroy, Tyrell Anderson, Dominic
 Bonomonte, Maria Asencio, Luigi Cuffari, Sharon
 Cuffari, Annabel Baratta, Michael Baratta, Roy
 Barefield, Sybel Barefield, Christine Cunningham,
 Michael Cunningham, Patricia Bullen, Thomas Bullen,
 Christine Corbett, Patrick F. Corbett, Annette Leary,
 Santy Bermudez, Bridget Cacavio, Thomas Cacavio,
 Joseph Cowell, Ralph Fragapane, Vera Fragapane,
 Holly Andersen, Jason Andersen, Gail Corrao, Louis

Corrao, Michael Guglielmo, Philomeni Guglielmo, Krista Desimone, Brian Glacken, Maria Cinquemani, Victor Cinquemani, Anthony Giorando, Marisa Giorando, Gerard Gavin, Mary Gavin, Denise Donato, Greg Donato, Maria Criollo, Jose Criollo, Louis Buglione, Winifred Buglione, Louis Gyuris, Nicholas Boscaino, Christine Carver, Thomas Carver, Richard Blasi, Thomas Cooke, Cynthia Cooke, John Antoniadis, Anthony Cummo, Christine Cummo, De'Andre Berry, Renee Berry, Ann Cangemie, Emanuel Cangemie, Darren C. Harkins, Robert Castorena, Lorenzo Arellano, Tricia Arellano, Carolyn Bavaro, Anthony Franzolin, Daniel Fernandez, Susan Fernandez, David Pope, Michael Knox, Peter Franzi, James W. Brereton, Sandra Brereton, Leslie Fleming, Robert Fleming, Ann Betro, Louis Betro, Aaron Edelman, R. Delia Mannix, Richard Mannix, Beverly Hovell, Richard Hovell, Charles Maxwell, Debbi Maxwell, Cristine Papasodero, Vincent Papasodero, Brian McGreever, Ileana McGreever, Michael Stacey, Stephanie Stacey, Kevin Martz, Anthony Valletta, Alma I. McCahey, Richard McCahey, Dianne Masino, Louis Masino, Michael Kendrick, Dawn Kirchner, Ronald Kirchner, Dale Pizzo, Frank Pizzo, Jenniffer Schojan, Peter Schojan, Donna-Marie Gullo, Karin Fox-Taitt, Patricia DeJesus, Andre Escalera, Donna Stacey, Louis Stacey, Elisabeth Mancini, Ron Mancini, Enrigue Cruz, Gladys Cruz, Jose Medina, John Lynott, Patricia Lynott, Mike Melillo, Susan Melillo, Erasmo Maddalena, Carolyn Riegert, Russell Riegert, Kerry Smith, Frank Salamone, Jodie Salamone, Ilyes H. Ruiz, David Ruiz, Eileen Moran, James Moran, Catherine Petrella, Michelle Oetting, William Oetting, Silvia Castillo, Richard Sere, Dennis Healy, Brian Hughes, Kerry Hughes, Anthony Serevino, Lizette Carvajal, Richard Harris, Patricia Mullaney, Regis Mullaney, Flora Priolo, Frank Priolo, Gary Walters, Star Walters, Irene O'Donnell, Charles Langone, Janet Langone, Cheri Rontondi, Mark Rontondi, Elizabeth Ryan, William Ryan, Peter Mladinich, Loretta Mendez, Roy Mendez, Delia Lopez-Stull, Edward Lopez-Stull, Albert Munro, Sandy Munro, Sandra Nemeh, Steven Nemeh, Dara Moore, Francis Moore, Stanislav Salomov, Vera Shalomov, Carmen Quinones, Raphael Quinones, Debra A. Boswell, Robert Boswell, Robert Melendez, Sarita

Melendez, Luigi Bruschi, Maria Bruschi, Arlene Feola, Gerald Feola, Dominick Capuano, Megan Capuano, Julie Bruno, Thomas Bruno, Alexander Darmiento, Jessica Darmiento, Donnamarie Nolan, James Nolan, Jennyfer Nagle, John Nagle, Denise Rushmore, Russel Rushmore, Evelyn Ruiz, Juan Ruiz, Andrea Bowles, Donald Bowles, Lamont Daniel, Susan Daniels, Jean Doherty, Kevin Doherty, Julie Camarda, Thomas Camarda, Elizabeth Dwyer, Patrick Dwyer, Michael McDaniel, Sharon McDaniel, Thomas Cruz, Elaine Buirkle, Joseph Buirkle, Kathleen Gannon, Richard Gannon, Lorraine Burke, Marie Neuman, Raymond Neuman, Mariana Ortega, Segundo Ortega, Carmen Ruiz, Edward Irving, Eileen T. Irving, Nancy Regan, Thomas Regan, Antonio Andreotti, Ralph Andreotti, Chris LaFrancesca, Marie LaFrancesca, Bunilda Litwin, Stuart Litwin, Diane Parrett, Kevin Parrett, George Henges, Nidal Henges, Al Laner, Linda Laner, James Parmiter, Laurie Parmiter, Joseph Palacino, Rose Palacino, Amadeo Pulley, Gina Pulley, Charles Murphy, Joanne Murphy, Christian Sollecito, Elizabeth Sollecito, Dawn Johnstone, John Johnstone, Patricia Loening, William Loening, Mercedes Sumba, Samuel Sumba, Eugene Hipsman, Kathleen Hipsman, Georgina Cabrera, Denise Perez, Felix Perez, Evelyn Riera, Freddie Noboa, Silvia Noboa, William Serpe, Solvig McAuley, Stacey O'Rourke, Kevin O'Rourke, Alice Norkevich, Frank Norkevich, Joann Mussillo, Joseph Mussillo, Blasina Ortega, Raul Ortega, Catherine Massab, Michael Greene, Jennifer Vowinkel, Lawrence Vowinkel, Brian Glacken, Kimberly Carlo, Peter Carlo, Kevin Calzadilla-Marino, Marisol Calzadilla-Marino, Salvatore Dantone, Frank Stark, Pamela Stark, Conte Cutting, Sonya Cutting, Evelyn Lillis, Steven Lillis, Charolotte Lipson, Ronnie Lipson, Christine Pierre, Frank Faivre, Maryellen Faivre, Angel Hualpa, John Fiorella, Ana Weeks, Raul Weeks, Andrew Dunaway, Kevin Bartolomew, Maria Bartolomew, Kathleen Dallas, Kevin Dallas, Josephine Genovese, Peter Genovese, Daniel Joyce, Clifford Kartell, Susan Kartell, Edgar Lugo, Minerv A. Lugo, Frank McCullagh, Rose McCullagh, Patricia Meade, Rory Meade, Chandidas Potopsingh, Lorraine Potopsingh, Andy Saladeen, Semoy W. Saladeen, Joseph Selesky, Sharon Selesky, Mark Sillaro, Monico Sillaro, Louis Vaccaro, Sean

Keary, Daniel Fucella, Maria Fucella, Robert J.
 McGrory, Houssain Lazaar, James Romano, Jack J.
 D'Elia, Helene Wolf, Timothy Wolf, Jeff Campion, Jose
 Polo, Janet M. Kelleher, Michael Kelleher, Daniel
 Black, Norma Black, Maura Farrell, Robert Farrell,
 Gregory Harris, Yvonne Harris, Alexander Chorny,
 Carlton Graham, Kevin Hickey, Rosario Hernandez,
 Salvatore Fradella, Ralph Carmine, Fran Martin, Luis
 Maranso, Fred Manzolillo, Thomas Primo, Vito
 Ribaud, Luis Ramos, Brian O'Connor, Kathleen
 O'Connor, Douglas Kenah, Janet Kenah, Andrea Pryce,
 Mary Ann Thompson, Victor Thompson, Jo Anne
 Kissane, Patrick Kissane, Michael Chambers, Gerald
 Hill, Valerie Hill, Dennis Luria, Susan Luria, Anthony
 Rotondi, Nicoletta Rotondi, Keith Mazzeo, Louis
 Camerada, Leroy Jonas, Roberta Jonas, Paul Pasqua,
 Thomas McMahon, Margaret Armagno, Daniel
 Armagno, Dawn Marie Sorber, Paul Sorber, Scott
 Lepre, Maria Asher, Thomas Asher, Ivan Petters, Derek
 Williams, Sharon Williams, Lawrence Wallace,
 Margaret Wallace, Brian Verardi, Jennifer Verardi,
 Chyrell Wells, David Wells, Edward Patterson, Patricia
 Patterson, Tonya Palmer, Carmen Velez, Jimmie White,
 Vincent Viola, Daine Villa, John Villa, Donna Masseria,
 Matthew Masseria, John Maglione, Joseph Maglione,
 Eric Saxon, Gaetano Messina, Maria Messina, Francine
 McInerney, Timothy McInerney, Donna Loughran,
 Patricia Loughran, Joseph Bellissimo, John Bianco, Isaac
 Hernandez, Angel Cruz, Eugene Harris, Yolanda
 Harris, Carole R. Klein, Glen Klein, Jose Ruiz, Edgardo
 Collazo, Shante Bueford, Terrance Bueford, Lawrence
 Bilicki, Mamcyhi Bilicki, Jill Maier, Henry
 Hachemeister, John Mailot, Tammy Mailot, Eileen
 Beaur, William Beaur, Donald Kiny, Georgene
 Shanahan, Michael Shanahan, Joseph Hardy, Andrew
 Powell, Amy Caradonna, Melchiorre Caradonna,
 Edward R. Pecoroni, June Pecoroni, Michael Basmagy,
 Barbara Thomas, Jevon Thomas, Kevin P. O'Malley,
 John Dunne, Marie Barry, Thomas J. Barry, Matthew
 Mulahm, James F. Albach, Daniel Willett, Lovella
 Willett, Theresa Cosgrave, Brigid Belford, John
 Belford, Kevin O'Malley, Philip Duncan, Virginia
 Duncan, Christopher M. Maloney, Jaqueline Maloney,
 Jamal Williams, Camile Baker, William Baker, Jenifer
 Streng, Joseph Streng, Christopher Bacchi, Jose Bacchi,

Fred LaFemina, Robin LaFemina, Lisa D. Maitland,
 Noel Maitland, Cynthia Dellaporta, Michael D.
 Dellaporta, Judith Longa, Thomas Longa, Julio C.
 Rosario, April Rojas, Carlos Rojas, Anita Thomson,
 Dennis Thomson, Arnold Hardman, Sharon T.
 Hardman, Christopher Ryan, Erin P. Ryan, John
 Rodelli, Kathy Rodelli, Dorothy Cunningham, Tom
 Cunningham, Augustine Sciabarassi, Patricia
 Sciabarassi, James Tierney, Mary Tierney, Thad Todd,
 Detective, Anthony P. Roy, Donna Roy, Nicholas
 Morrone, Robert Kenavan, Veronica Kenavan, Ariel
 James, Ava James, Belinda Gonzalez-Ruane, Tye
 Butler, Peter Cooper, Maria Cooper, Joseph M. Urso,
 Bruce Gerrie, Debra A. Gerrie, Kevin Barry, Lorraine
 Barry, Keith Richards, Teresa Arca, William Ziegelmeir,
 Patrick Desarlo, Noreen Desarlo, Antoinette Cacovic,
 Alexander Cacovic, William Geer, Randy S. Brenner,
 Andrew Porazzo, Pawel Krasko, Denise DeAngelis,
 Karen Doty, Ricard Doty, James Arca, Marion
 Slawinski, Marie Slawinski, Joanne William, Dreu
 Williams, Eugene Dalton, Nan Dalton, Richard Eulie,
 Yvonne Eulie, Michael Briskie, Silva Briskie, Steven
 Kepley, Michael Gentile, Nurul Amin, Mark DeMauro,
 Gina DeMauro, Daphna Blacksea, Victor DiPierro,
 Lucy DiPierro, Robert Coletti, Phylis Coletti, Marco A.
 Mendoza, Carolina Mendoza, Peter Tartamella, Frances
 Tartamella, Michael Sullivan, Jennifer Sullivan,
 Christopher Wanker, Meghan Wanker, Bill Cavanaugh,
 Margaret Cavanaugh, Raymond Denninger, Vicki
 Denninger, Thomas Dawber, Anna-Marie Dawber,
 Jaime Cruz, Katherine Cruz, Ralph Madonna, Michael
 Restagno, Maria Restagno, Colin Byrne, Christopher
 Dowd, Barbara Dowd, Paul Jaeger, Carolyn Jaeger,
 Kenneth Quest, Susan Quest, Anna Abad, Aly
 Abdelrehim, Hala Abdelrehim, Leonard Abruzzese,
 Caryn Abruzzese, Albert Acierno, Holly Acierno, Peter
 Acquaro, Kathleen M. Acquaro, Guiseppe Acquista,
 Robert Adams, Lahissi Adetayo, George Affatato, Lois
 E. Affatato, Emmanuel Agostini, Calogero Agro, Rosa
 Agro, Carmelo Agro, Steven Agugliardo, Nicole
 Agugliardo, Robert Aguirre, Patricia Aguirre, Inderpaul
 Ahluwalia, Manjeet Ahluwalia, Nasar Ahmed, Okpara
 Akil, Ronnita Akil, Vivencia Alaimo, Serafina Alaimo,
 Anthony Albert, Sylvester Alexander, Debora
 Alexander, Victor Alexander, Geraldine Alexander, Jane

Alfano, Darren Alicea, Clifford Allen, Josephine Allen,
 Kevin Allen, June Allison, Raul Allivar, Anthony
 Alloggio, Catherine Alloggio, Orlando Almodovar,
 Julio Alonzo, Neil Alper, Jorge E. Alulema, Robert
 Alvarado, David Alvarado, Sonia Alvarado, Lynn
 Alvarez, Doria S. Alvarez, Jaime Alvarez, Maria
 Alvarez, Carlos Alvarez, Saul Alvarez, Santiago Alvear,
 Jorge Alvlema, Glenda Ammon, Louis Ancona,
 Anthony Anderson, Orenthal Anderson, Gregory
 Anderson, Nicole Anderson, Joseph Anderson, Andrea
 Anderson, Mortimer Anderson, Camile Anderson,
 Courtney Anderson, Mark Andrus, Pino Anselmo, Rita
 Anselmo, Stewart Anspach, Nick Antico, Anna Antico,
 Peter Antienne, Evanie Antine, Richard Antonacci,
 Robert Anzalone, Ann Marie Anzalone, Joseph
 Anzueta, Jose Aponte, Noemi Aponte, Vincent Aprea,
 Krista Aprea, Courtney Aquart, Lillieth Aquart, John
 Arciuolo, Celia Arciuolo, Arenas Arenas, Jhonson
 Arichabala, Dagoberto Aristizabal, Alexandra
 Aristizabal, Enid Aristizabal, Joseph Arlotta, Kimberly
 Arlotta, Thomas A. Arlotta, Romulo Armas, Claude
 Armstrong, Laura Armstrong, Danny Aroyo, Theresa
 Arroyo, Lisa Asaro, Joseph Ascioilla, Francine Ascioilla,
 Wilmer Astudillo, Maria I. Astudillo, Marcelo Atencia,
 Frank Auditore, John Auer, Jules Auguste, Clyde
 Augustine, Portia Augustine, Fitzroy Augustus, William
 Ausby, Thomas Avery, Linda Avery, David Aviles,
 Anna Aviles, Lawrence Ayers, Patricia Ayers, Victor
 Azubike, Tekrishia Azubike, Thomas Bacchi, Irene
 Bacchi, Fabiola Baez, Raul Baez, James Bahrey,
 Lauranne Bahrey, Santo Baisi, Alfred Baker, Candiace
 Baker, Chris Balabous, Rosanne Baldo, Krishendath
 Baliraj, Olga Baliraj, Joseph Barbato, Joseph Barbera,
 Virginia Barbosa, Stalin F. Barccoulong, Michael
 Barker, Raymond Barksdale, Elizabeth Barksdale,
 Andrew Barone, Ann Marie Barone, Sergio Barragan,
 James Bartlet, Yudelka Bartlet, Guillermo Barzola,
 Wilbert Bascom, Setna Bascom, Anthony Basic,
 Thomas Basmagy, Nancy Basmagy, Harry Bass, Maria
 L. Bass, Julio Bastidas, Max Bataille, Jr., Linda Battle,
 Richard Battle, Frank Bauman, Alise L. Bauman,
 Christopher A. Bauman, Hanfort Bautista, Patrick J.
 Beatty, James Beck, Christine Beck, Paul Beck, Tinel
 Bedford, Leonard Beecher, Fanny Bejarano, Theadore
 Belgrave, Amy Beller, Timothy Bellew, Kathleen A.

Bellew, Dimitrios Bellos, Martin Belmonte, Eileen Belmonte, Xavier Beltran, Florinda Benavidez, Lori Bencivenga, Thomas L. Bencivenga, Rose Marie Bencivenga, John Benedetto, Theresa Benedetto, Vinny Benenati, Cindy Benenati, Andrew Benfante, Shirley Benfante, Reynaldo Benitez, Richard Benn, Ann Benn, Carlos Bennett, Donna Bennett, Peter Bergin, Susan Bergin, Erick Bermudez, Frank Beshears, Diane Bethea, Idris Bey, Michael Bianchino, James A. Bianco, Terry Bianco, Vito Bianco, James Bieselin, Lorraine K. Bieselin, Joseph F. Biella, Roseann Bilella, Robert Bilella, Maureen Bilella, Vincent Bilella, Martin Bilinski, Catherine Bilinski, Kampta Bishun, Hassena Bishun, Peter Bishun, Elizabeth Bishun, John Black, Patricia Black, Joseph Black, Veronica E. Black, Leon L. Blackwell, Jorge Blanco, Dora Blanco, Leroy Blount, Eleanore Blount, Thomas Blumbergs, Kevin Bobe, Nicholas P. Bolobanic, Joy H. Bolobanic, Anthony Bombace, Jean Bombace, Jay Bomser, Daniel Bonanno, Frank E. Bondeson, Kathleen Bondeson, Edward Smith, Dennis M. O'Connor, Nicholas Lusuriello, Thomas M. Flanders, 22 Non-Resp, Darlene Montalvo, Paula Raehse, Daniel DeGiovine, Joette DeGiovine, All Plaintiffs, Harold Valencia, Natalie Valencia,

Plaintiffs,

City of New York, AMEC Construction Management, Inc., AMEC Earth & Environmental, Inc., Bovis Lend Lease LMB, Inc., Evergreen Recycling of Corona (E.R.O.C.), Turner/Plaza, A Joint Venture, A Russo Wrecking, Inc., Plaza Construction Corp., Atlantic-Heydt Corporation, Tully Construction Co., Inc., Turner Construction Company, Berkel & Company Contractors, Inc., Big Apple Wrecking & Construction Corp., Board of Education of the City of New York, Breeze Carting, Inc., Breeze National, Inc., Brer-Four Transportation, Buro Happold Consulting Engineers, PC, C.B. Contracting Corp., Canron Construction Corp., Component Assembly Systems, Inc., Cord Contracting Co., Inc., Dakota Demo-Tech, Diamond Point Excavating Corporation, Diversified Carting, Inc., DMT Enterprise, Inc., E. J. Davies, Inc., Eagle One Roofing Contractors, Inc., En-Tech Corporation, Ewell W. Finley, P.C., Executive Medical

Services, P.C., Fleet Trucking, Inc., Francis A. Lee Company, FTI Trucking Corp., Gilsanz Murray Steficek, LLP, Goldstein Associates Consulting Engineers PC, Hallen Welding Service, Inc., HP Environmental, Inc., Hudson Meridian Construction Group LLC, J.P Equipment & Rental Materials, L.L.C., La Strada General Contracting Corp., Laquila Construction, Inc., Leslie E. Robertson Associates , R.L.L.P., Liberty Mutual Insurance Company, Lockwood Kessler & Bartlett, Inc., MRA Engineering P.C, Mueser Rutledge Consulting Engineers, Nacirema Industries Inc., Manafort Brothers Incorporated, New York City School Construction Authority, New York Crane & Equipment Corporation, Nicholson Construction Company, Peter Scalamandre and Sons, Inc, Pinnacle Environmental Corporation, Pro Safety Services Inc., PT&L Contracting Corporation, Robert L. Gerosa, Inc., Robert Silman Associates, P.C., Moretrench American Corp., Rodar Enterprises, Inc., Royal GM Inc., SAB Trucking, Inc., Safeway Environmental Corporation, Semcor Equipment & Manufacturing Corporation, Silverite Contracting Corporation, Simpson Gumpertz & Heger, Inc., Skanska Koch, Inc., Skidmore Owings and Merrill, L.L.P., The City University of New York, Thornton Tomasetti, Inc., Total Safety Consulting, LLC, Tucci Equipment Rental Corporation, Vollmer Associates LLP, Weeks Marine, Inc., Weidlinger Associates P.C., Wolkow Braker Roofing Corporation, WSP Cantor Seinuk, Yannuzzi & Sons, Inc., Yonkers Contracting Company, Inc., Lucius Pitkin, Inc., LZA Technology, a division of Thornton Tomasetti, Mazzocchi Wrecking, Inc., New York City Department of Education,

Defendants.

The parties in the above-referenced case have filed a stipulation withdrawing this appeal pursuant to Local Rule 42.1.

The stipulation is hereby "So Ordered".

For The Court:

Catherine O'Hagan Wolfe,
Clerk of Court

The block contains a handwritten signature in black ink that reads "Catherine O'Hagan Wolfe". The signature is written over a circular official seal of the United States Court of Appeals, Second Circuit. The seal is red and blue, with the words "UNITED STATES", "SECOND CIRCUIT", and "COURT OF APPEALS" visible.

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

The block contains a handwritten signature in black ink that reads "Catherine O'Hagan Wolfe". The signature is written over a circular official seal of the United States Court of Appeals, Second Circuit. The seal is red and blue, with the words "UNITED STATES", "SECOND CIRCUIT", and "COURT OF APPEALS" visible.